THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.11009 of 2006

05.12.2006

Between:

Mr. Manhar Patel

..Petitioner

And

1. State of Andhra Pradesh, represented by its Secretary Revenue having office at Secretariat, Saifabad, Hyderabad. and others.

..Respondents

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.11009 of 2006

ORDER:

The petitioner claims to have succeeded to the property admeasuring 16,557 square yards (3 acres 2037 square yards), bearing plot numbers 108 to 111, 116 to 118, 11, 120 and 121, allegedly having Municipal Nos.8-2-686/2, 3, 4 and 5 situated at Road No.12, Banjara Hills, Shaikhpet Village. He claims to have inherited the property from his parents Smt.Kausalya Devi V. Patel and Dr.Vidyanand K. Patel, who purchased the said property from B.Susheela, B.Omkar Rao, V.Krishna Rao and K.Raghaveshwar Rao under registered documents. The petitioner made an application on 08.04.2005 to the second respondent for survey and demarcation of the property. He also sent reminder, in vain. Therefore, he filed instant Writ Petition seeking a Writ of *mandamus* directing the respondents to carry out survey of the petitioner's land.

The second respondent filed a counter-affidavit. It is stated that the petitioner submitted an application for demarcation of the land stating that he is not able to locate the land purchased by his parents. The application submitted by the petitioner on 08.04.2005, was entrusted to the Mandal Surveyor for necessary action i.e., survey and demarcation. The Surveyor submitted a report stating that the plots requested by the petitioner are not incorporated in the town survey records, and as such, survey and demarcation is not possible, as the petitioner failed to mention any survey number/town survey number. Accordingly, a memo was issued to the petitioner.

Learned counsel for the petitioner submits that the respondents are bound to survey and demarcate the petitioner's land under the provisions of the Andhra Pradesh Survey and Boundaries Act, 1923 (for short "the Act"). In spite of petitioner making representation and following it up with reminders, the respondents failed to do the survey. He also submits that when Mandal Surveyor went to the site, he did not even give notice to the petitioner before filing a report. If only a notice had been given, the petitioner would be able to show the land to be surveyed. **Per contra**, the learned Assistant Government Pleader for Revenue (General-T) submits that in the application filed by the petitioner, he did not give any survey number or town survey number, but mentioned the area of the land as 2037 square yards, Road No.12, Banjara Hills, purchased under a registered sale deed, dated 26.07.1965, vide document No.1814 of 1965.

A perusal of the application, dated 08.04.2005, annexed to the Writ Petition, would support the contention of the answering respondent, who filed the counter, as well as the submission made by the learned Assistant Government Pleader. The petitioner did not give any survey number/town survey number where the land admeasuring 2037 square yards is situated. He only mentioned that the said land is situated at Road No.12, Banjara Hills, Hyderabad, and that it was purchased under a registered sale deed, dated 26.07.1965. Precisely for this reason, the Mandal Surveyor submitted a report expressing his inability to conduct survey and demarcation. When the same was communicated by the second respondent to the third respondent, vide letter No.A5/321/05, dated 26.04.2005, the third respondent through letter, dated 18.10.2006, informed the Counsel for the petitioner that the petitioner's application for demarcation cannot be considered, as it is found that he did not mention any survey number/town survey number, but only mentioned plot numbers, which are not reflected in the Revenue and Survey Land Records. Therefore, this Court cannot find fault with the respondents. Be that as it is, if the petitioner is aggrieved by letter No.A/2372/2006, dated 18.10.2006, issued by the third respondent, he may prefer an appeal before the Commissioner of Survey, Settlement and Land Records, Government of Andhra Pradesh, under Section 11 of the Act. The petitioner is given ten days time for filing an appeal. As and when such appeal is filed, the appellate authority may consider the same and pass appropriate orders within a week thereafter.

With the above observation, the Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

05.12.2006

Note:Furnish Certified Copy in three days.

(B/o)

GJ